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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,915	06/26/2001	Yoichi Kobayashi	450100-03260	3853

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EXAMINER
CAPRON, AARON J

ART UNIT	PAPER NUMBER
3714	

DATE MAILED: 09/15/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/892,915	KOBAYASHI ET AL.	
	Examiner	Art Unit	
	Aaron J. Capron	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 June 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4 and 6-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4 and 6-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

This is a response to the Amendment received on June 18, 2003, in which claims 1-4 were amended, claims 6-12 were added, and claim 5 was cancelled. Claims 1-4 and 6-12 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-5, 7, 9 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pease et al. (U.S. Patent No. 5,759,102; hereafter "Pease") in view of Nogay et al. (U.S. Patent No. 5,993,088; hereafter "Nogay").

Referring to claim 1, Pease discloses a video game system comprising a video game apparatus that includes video game software program readout means for reading out a video game software program from a video game program recording medium, having recorded thereon the video game software program, the video game software program being made up of a main portion of the video game software program, peripheral contents data and a peripheral driver; a non-volatile memory for storing the peripheral driver along with the information on game progress; peripheral driver updating means for updating the peripheral driver stored in the non-volatile memory by the new peripheral driver contained in the game software program read out by the video game software program readout means; and peripheral controlling means for

reading out the peripheral driver stored in the non-volatile memory to a work memory and for converting the contents data read out from the video game program recording medium by the video game software program readout means; and a peripheral device (Figure 1 and 2:30-3:7), but does not disclose that a peripheral device is a printer However, it is notoriously well known in the art of computer systems that a printer can be added onto a computer system in order to print hardcopies of documents for personal or business records. Further, it is inherent feature that printers have a corresponding printer driver. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the printer as a peripheral device into Pease's invention in order to print hardcopy documents for records. Pease discloses a video game system, but does not disclose the video game system comprising the printer driver is made up of a common engine module for performing a process which is not dependent on the printer type. However, Nogay discloses a printer driver being made up of a common engine module for performing a process that is not dependent on the printer type (4:34-44). One would be motivated to combine the references in order to provide the ability to receive graphics from the applications and translates those into print jobs (1:26-37). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate Nogay's common engine module into the game device of Pease in order provide the ability to receive graphics from the applications and translates those into a print jobs

Referring to claim 7, Pease in view of Nogay disclose a video game system. It is inherent that a player can print at any time from a computer, wherein the printout has printing content.

Claims 2-4, 9 and 11-12 correspond in scope to a video game apparatus and method set forth for use of the video game system listed in claims listed above and are encompassed by use as set forth in the rejection above.

Claims 6, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pease and Nogay as applied to claims 1-4 above, and further in view of Fawcett et al. (U.S. Patent No. 5,678,002; hereafter "Fawcett").

Referring to claims 6, 8 and 10, Pease in view of Nogay disclose a video game system, but do not disclose updating only outdated modules of the printer driver. However, Fawcett discloses the ability to provide patches and/or upgrades to features of a client's computer to update an older version with a newer version of software. One would be motivated to combine the references in order to provide the ability to upgrade a peripheral device without having to buy a different printer. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate Fawcett's ability to upgrade/patch existing software with the game machine of Pease and Nogay in order to provide the ability to upgrade a peripheral device without having to buy a different printer.

Response to Arguments

Applicant's arguments filed June 18, 2003 have been fully considered but they are not persuasive.

The Examiner has taken Applicant's arguments as challenging the "well-known statements" in the previous action and provides the Nogay reference as supporting documentation for this statement. See MPEP 2144.03.

Applicant argues that Pease does not establish or suggest a printer driver. However, it is an inherent feature that a printer has a printer driver. As shown above, Pease discloses or suggests that peripheral devices can be added onto the gaming system, wherein a printer is peripheral device. Therefore, the claimed invention fails to preclude the gaming system of Pease.

Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

Further, the Examiner has noted that the dedicated engine modules are inherent features within a printer, as previously claimed.

Further, it is noted that the Applicant's failed to reasonably traverse examiner's well known statements in their response, therefore, the object of the examiner's statements (e.g. printer can be added onto a computer system) is taken as admitted prior art. *In re Chevenard*, 139 F.2d 711, 60 USPQ 239 (CCPA 1943).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ajc

S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700